

EXHIBIT F

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February 6, 2009

Via Hand Delivery

Philip D. Hixon, Esq.
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320 S. Boston Ave., Suite 700
Tulsa, Oklahoma 74103

Via Facsimile Only

Gordon D. Todd, Esq.
Sidley Austin, LLP
1501 K Street, N.W.
Washington, D.C. 20005

Re: *State of Oklahoma, et al. v. Tyson Foods, Inc., et al.*
United States District Court Northern District of Oklahoma
Case No. 4:05-cv-00329-GKF-PJC

Gentlemen:

As I advised Mr. Hixon in my letter dated February 5, I was retained by Consumer Logic, Inc. to assist it in connection with the Subpoena it received from Tyson Foods, Inc. on or about January 30. Consumer Logic has every intention to cooperate with Tyson Foods to the fullest extent possible so as not to interfere with its pending litigation. However, Consumer Logic asserts the following objections and concerns:

- **Ineffective Service.** Your Subpoena was hand-delivered to a receptionist at Consumer Logic on the afternoon of January 30. The receptionist served with the Subpoena is not an officer, director, manager or service agent of the corporation and so advised your process server. Your process server merely asked for the "manager

in charge". When advised that the President, Dan Jarrett, was not in the office, the Subpoena was left with the receptionist.

- **The Subpoena fails to allow a reasonable time for the production of the information.** Even assuming your Subpoena was properly served, five business days is not a reasonable time for a company the size of Consumer Logic to gather and produce over two years of work product. The time limit you impose is therefore in violation of Rule 45(c)(3)(A)(i).
- **The Subpoena has and is imposing an undue burden and expense on Consumer Logic.** As you are well aware, a party issuing a subpoena has the responsibility to take reasonable steps to avoid imposing an undue burden and expense on the recipient thereof. It appears that no effort was made to comply with this requirement. The broad and overlapping document requests in the Subpoena appear to require Consumer Logic to produce or account for every bit of information generated or received on the project in question which spanned over two years. The Subpoena has imposed an undue hardship on Consumer Logic in violation of Rule 45(c)(1).
- **The Subpoena requests information which Consumer Logic deems to be proprietary in nature.** The Subpoena specifically requests Consumer Logic's billing information generated or received in connection with the services in question. Consumer Logic's pricing and billing information is proprietary in nature and is therefore considered to be a trade secret pursuant to Rule 45(c)(3)(B)(i).

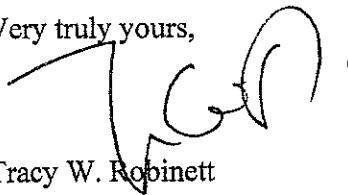
Additionally, the broad language of the Subpoena would seemingly require Consumer Logic to produce its profile sheets from which it solicits candidates for its focus groups and surveys. The data in the profile sheets provides Consumer Logic an edge over its competitors and is highly confidential and proprietary in nature. It, too, is considered to be a trade secret.

- **The Subpoena requests confidential research and development information.** The Subpoena specifically requests the identity of the participants in the focus groups and surveys in question. Further, much of the information responsive to the Subpoena contains personal information for the participants such as birthdates, telephone numbers, e-mail addresses, residential addresses and occupations. Prior to their agreement to participate in Consumer Logic's focus groups and surveys in question, the participants were assured that their identities and personal information would be maintained in strict confidence. In reliance on those assurances, the participants agreed to lend their assistance to Consumer Logic. Consumer Logic has an ethical obligation to honor its commitment of confidentiality to the participants.
- **Consumer Logic is contractually prohibited from producing the requested**

information. Consumer Logic is contractually obligated to Stratus Consulting, Inc. to keep the work product in question in the "strictest confidence". Prior to the production of any information, Stratus Consulting will need to be given an opportunity to waive such obligation or to object, in whole or in part, to the Subpoena.

I would welcome the opportunity to meet with you and conduct a good faith discussion as to how to resolve the foregoing objections and concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tracy W. Robinett', with a stylized flourish at the end.

Tracy W. Robinett

TWR/nf

cc: Dan Jarrett (*via email*)



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Matthew T. Murnane

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February 5, 2009

James R. Wedeking, Esquire
SIDLEY AUSTIN, LLP
1501 K Street
Washington, D.C. 20005

**Re: State of Oklahoma, et al v. Tyson Foods, Inc., et al.
Objection to Subpoena on behalf of Westat, Inc.**

Dear Mr. Wedeking:

I enclose an Objection to Subpoena on behalf of Westat, Inc.

Thank you.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Math T Murnane", followed by a horizontal line.

Matthew T. Murnane

MTM/jmh

Enclosure

cc: Ingrid L. Moll, Esquire (via electronic mail)

David A. Reesman, Esquire (via electronic mail)

035315-267851

BA2/#360112

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

STATE OF OKLAHOMA, <u>et al.</u>	:	
	:	
Plaintiffs,	:	CASE #: 4:05-CV-00329-GKF-PJC
v.	:	In the United States
	:	District Court for the
TYSON FOODS, INC., <u>et al.</u>	:	Northern District of
	:	Oklahoma
Defendants	:	
	:	

OBJECTION TO SUBPOENA ON BEHALF OF WESTAT, INC.

Nonparty Westat, Inc., by and through its undersigned attorneys, pursuant to Fed. R. of Civ. Proc. 45, objects to the command to produce and permit inspection and copying of the documents or objects specified in the Subpoena In A Civil Case dated January 29, 2009 (the "Subpoena") and issued at the request of Defendants Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., and Cobb-Vantress, Inc. (collectively "Tyson"), and in support thereof states as follows:

1. The Subpoena on its face is overly broad and unduly burdensome in that it seeks the production of several categories of documents, including electronically stored information ("ESI"), eight (8) days after service of the Subpoena. Rule 45(c)(2)(B) provides that a party may object to a subpoena seeking the production of documents. Rule 34, covering, among other things, the discovery of documents, including ESI, from a party, provides that a party to whom a request for documents is directed shall respond within 30 days after being served. Fed. R. Civ. Proc. 34. Tyson's Subpoena seeking the production of documents and ESI within eight days of service and twenty-two days less than the time allowed for parties to respond to similar requests under Rule 34 is *prima facie* unreasonable and unduly burdensome.

2. Putting aside the unreasonable period of time to respond to the Subpoena, the subpoena is overly broad and unduly burdensome, and as a result, Westat objects to the Subpoena and refuses to produce the information requested. Westat currently has ESI on its system containing over 21,000 files and 10.9 gigabytes. Westat estimates that it will take at least four employees, including project managers, programmers and assistants, collectively more than 100 hours at a labor cost of approximately \$5,000 to retrieve the data in a format that can be produced. This estimate does not include data stored on back-up tapes and other information not readily available. If Westat is required to retrieve data, information and documents not readily available, the labor cost will increase exponentially. In addition, Westat objects to the Subpoena and refuses to produce the information and documents requested because Tyson fails to indicate in the Subpoena its willingness to pay the reasonable costs incurred by Westat to retrieve and produce the documents and information requested.

3. Westat objects to the Subpoena because it seeks information protected by the attorney-client privilege or work product protection. Plaintiff has identified Stratus Consulting, Inc. ("Stratus") as a testifying expert in the case captioned *State of Oklahoma, et al. v. Tyson Foods, Inc., et al.*, Case No. 4:05-CV-00329-GKF-PJC, in the United States District Court for the Northern District of Oklahoma (the "Underlying Case"), and Westat has been retained as a non-testifying expert. Westat provided information to Stratus, Plaintiff's damages expert, for its consideration in assessing the damages in the Underlying Case, and Westat understands that in the Underlying Case Plaintiff produced the information that Stratus considered, including information received from Westat, in accordance with Rule 26. The work product protection precludes Westat from producing any information or documents other than that already produced in the Underlying Action.

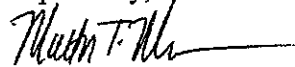
4. Westat objects to the Subpoena because it seeks confidential information, including the identities of the survey respondents and interviewers. Westat is a member of the Council of American Survey Research Organizations (“CASRO”). CASRO has established a detailed Code of Standards for Survey Research (the CASRO Code) and a set of Business Practice Guidelines, both of which establish specific responsibilities for professional survey researchers to maintain the confidentiality of information that might reveal the identities of survey respondents. Indeed, the CASRO Code provides that “it is essential that Survey Research Organizations be responsible for protecting from disclosure to third parties—including Clients and members of the Public—the identity of individual Respondents as well as Respondent-identifiable information, unless the Respondent expressly consents.” CASRO Code, I.A.1. As a member of CASRO, Westat is required to adhere to the CASRO Code and Business Practice Guidelines. Several courts have recognized the public interest in maintaining the confidentiality of survey respondents. *E.g., Lampshire v. Proctor & Gamble Co.*, 94 F.R.D. 58 (N.D. Ga. 1982); *Farnsworth v. Proctor & Gamble Co.*, 758 F.2d 1545 (11th Cir. 1985); *Richards of Rockford v. P.G.&E.*, 71 F.R.D. 388 (N.D. Ca. 1976); *Applera Corp. v. MJ Research, Inc.*, 389 F. Supp.2d 344, 350 (D. Conn. 2005) (acknowledging researchers’ ethical prohibition on disclosure of the identities of survey respondents as a legitimate basis for preserving confidentiality). The respondents who participated in this case did not consent to the release of their identity, and Westat objects to producing any information that would reveal the identities of the survey respondents or interviewers.

5. In addition, the identity of the survey respondents is not relevant to the claims and defenses asserted in the Underlying Case or reasonably designed to lead to the discovery of admissible evidence, and Westat objects to the Subpoena on that basis.

6. Westat understands that much of the information requested in the Subpoena is or was the subject of a discovery dispute in the Underlying Case. Tyson's issuance and service of the Subpoena appears to be nothing more than an end run around the process for resolving discovery disputes in the Underlying Action. Accordingly, Westat objects to the production of the information and documents requested in the Subpoena because the discoverability of the information sought should be resolved in the Underlying Case.

WHEREFORE, for the foregoing reasons and for such other and further reasons as may be raised by any party to the Underlying Case, Westat objects to the Subpoena and refuses to produce or permit the inspection of the information and documents requested.

Respectfully,



Matthew T. Murnane
Venable LLP
Suite 900, 750 E. Pratt Street
Baltimore, Maryland 21202
(410) 244-7400

Attorneys for Westat, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February, 2009, a copy of the foregoing Objection to Subpoena was delivered via electronic mail and UPS overnight mail to James R. Wedeking, Esquire, Sidley Austin, LLP, 1501 K Street, NW, Washington, D.C. 20005.



Matthew T. Murnane

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OKLAHOMA CITY, OKLAHOMA 73104

TELEPHONE: (405) 702-9900
FACSIMILE: (405) 605-8381

February 9, 2009

Sent via facsimile to (405) 239-6766 and U.S. Mail

Mr. Stephen L. Janzen, Esq.
RYAN WHALEY COLDIRON SHANDY
119 N. Robinson
900 Robinson Renaissance
Oklahoma City, Oklahoma 73102

RE: *State of Oklahoma, et al. v. Tyson Foods, Inc., et al.*
Case No. 05-CV-00329-GKF/SAJ
Objection to Subpoena of Wilson Research Strategies, L.L.C.

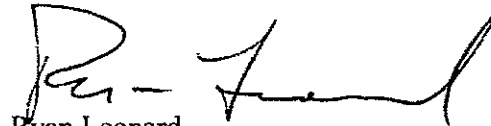
Dear Mr. Janzen:

On behalf of Wilson Research Strategies, L.L.C. ("WRS"), this letter hereby serves as our client's FRCP 45 objection to the subpoena duces tecum you served upon them dated January 30, 2009. WRS' objections pertain to the subpoena as a whole and to each individual Request contained therein.

In this regard, WRS was contracted by Stratus Consulting ("Stratus") to conduct a focus group study on March 14 and 15, 2007. Contained within the contract between Stratus and WRS is a confidentiality agreement which precludes disclosure of any of the information provided by Stratus or generated in connection with the study referenced above. Additionally, disclosure of such information, and specifically information regarding the identity of focus group participants who understood the focus group was confidential (Request No. 2), violates professional research standards. The subpoena is also overly broad and is unduly burdensome upon WRS.

For these reasons, WRS objects to the production of documents requested in your subpoena duces tecum.

Sincerely,



Ryan Leonard

RL/jdb

cc: Jay T. Jorgensen
Mark D. Hopson
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